



# Department of Planning, Housing, & Community Development

**Mayor, Matthew T. Ryan**

*Director, Tarik Abdelazim*

## **STAFF REPORT**

TO: Planning Commission Members  
FROM: Planning Staff (PHCD)  
DATE: February 21, 2013  
SUBJECT: 83 Court Street; Series A Site Plan / Special Use Permit Review  
TAX ID #: 160.41-1-16  
CASE: 2013-03  
COPIES: B. Seachrist, T. Costello, L. Day, P. Krey, D. Thomas, D. Eggleston, J. Zikuski, J. Yannuzzi, L. Webb (District 4), L. Gladstone, File

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### **A. REVIEW REQUESTED**

Stellar 83 Court Street LLC has submitted an application for Series A Site Plan / SUP review for a proposed mixed-use project at the properties known as 83 Court Street. The existing structures at the subject property are known collectively as “The Midtown Mall,” the name of the shopping center that occupied the structures. The property has been vacant since the early 1990s.

The applicant proposes to convert the Lower Level and 1<sup>st</sup> – 5<sup>th</sup> floors of an existing structure to Multi-Unit Dwelling (76 Units, 180 Bedrooms), with some 1<sup>st</sup> floor area reserved for commercial tenants (Uses To Be Determined).

Per Section 410-53 (A), off-street parking requirements shall not apply to any existing buildings located in the Downtown Business (C-2) District where no parking presently exists and there is no opportunity to provide it.

### **B. PLANNING STAFF COMMENTS**

- Greater plan detail for the 2 indicated basement level spaces labelled as ‘Courtyard’ is required.
- The submitted floor plan indicates that the existing 2<sup>nd</sup> story elevated walkway connection that extends northward over Commercial Alley then west to the public parking structure at 142 State Street would remain in place under the proposed project.

Greater detail is required on whether the walkway can safely be utilized for the movement of people and how access to/from the development will be controlled. Site visits to the property suggest that significant repair would likely be required for utilization, and potentially that removal of the walkway must occur to ensure public safety (interior users and general public). Detail on the proposed use of

this feature and the analysis informing that decision are necessary for review by Planning Commission.

- The applicant has not provided renderings of the proposed exteriors of the building, though they have indicated a desire to restore the building to a historically appropriate façade. These renderings are required for review.
- A garbage management plan should be submitted indicating the methods for interior garbage collection/ detention, the frequency of waste pickup and locations where activities shall occur.
- A description of post-construction loading activities for indicating anticipated types of deliveries / pickups that will occur with regularity for the operation and maintenance of the development and locations where activities shall occur.

### **C. ADDITIONAL REVIEWS**

The project is located within the Court Street Historic District; any changes to the exterior will require review by the Commission on Architecture and Urban Design (CAUD). An application for this review has not yet been submitted.

The project is located within the boundaries of the LWRP; the applicant has submitted an application for review by the Waterfront Advisory Committee (WAC). The WAC will review the project for consistency with the policies of the City's Local Waterfront Revitalization Plan.

The project may be subject to Joint Sewage Treatment Plant Sewage Board approval under the Flow Management Plan made effective January 1, 2013.

### **D. STANDARDS FOR APPROVAL OF SITE PLANS & SPECIAL USE PERMITS**

Listed below are the *Standards for approval of site plans* found in Article IX of the Zoning Ordinance. In reviewing a Site Plan Modification application, the Planning Commission should refer to the guidelines for reviewing a Series A Site Plan application. Planning Commission is guided by the existing characteristics and conditions of the site, its surroundings, and the particular requirements of the Applicant. Elements of concern include, but are not limited to the following:

- Movement of vehicles and people
- Public safety
- Off-street parking and service
- Lot size, density, setbacks, building size, coverage and height
- Landscaping, site drainage, buffering, views or visual character
- Signs, site lighting
- Operational characteristics
- Architectural features, materials and colors
- Compatibility with general character of neighborhood
- Other considerations that may reasonably be related to health, safety, and general welfare

In addition, the general requirements for granting a Special Use Permit, as described in Section 410-40, must be complied with. The requirements for Section 410-40 are as follows:

1. That the land use or activity is designed, located, and operated so as to protect the public health, safety, and welfare.
2. That the land use or activity will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
3. That the land use or activity will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.
4. That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot areas not used for structures or access drives shall be improved with grass, shrubs, trees, and other forms of landscaping, the location and species of which shall be specified on the site plan.
5. That a site plan shall be approved in accordance with applicable provisions of Article IX of the Zoning Ordinance.
6. That adequate off-street parking and loading are provided in accordance with Article X of the Zoning Ordinance or other requirements as may be set forth in Section 806, and egress and ingress to parking and loading areas are so designed as to minimize the number of curbcuts and not unduly interfere with traffic or abutting streets.
7. That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.
8. That existing public streets and utilities servicing the project shall be determined to be adequate.
9. That significant existing vegetation shall be preserved to the extent practicable.
10. That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
11. That the land use or activity conforms with all applicable regulations governing the zoning district where it is to be located, and with performance standards set forth in Section 503 of the Zoning Ordinance, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of Section 806. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of the Zoning Ordinance.

## **E. SITE REVIEW**

A multi-story structure known as the Midtown Mall covers the entire .54 acre site. The current parcel known as 83 Court Street is the result of a consolidation of several properties formerly known as 15-17 Chenango Street, 1 Commercial Alley, 83-85 & 87 Court Street. The ~100,000 square foot building footprint has been

vacant since the early 1990s. The portion of the parcel with a Court Street frontage (previously known as 83-85 Court Street) was originally constructed in 1873.

A large portion of the structure's interior structure has been removed following damage resulting from a 2010 fire at the subject property.

The existing structure maintains several points of ingress/egress at 3 general locations- Chenango Street, Court Street and Commercial Alley. An elevated pedestrian walkway is attached to the 2<sup>nd</sup> story of the subject structure at the northern frontage (on Commercial Alley). The predominant land use in the vicinity of the Midtown Mall consists of commercial establishments.

The two-way street known as Commercial Alley is one city block in length, running south from its northmost boundary (Henry Street) until the subject property, where Commercial Alley extends further south to Court Street as a pedestrian-only path and plaza, with multi-modal traffic diverted west to State Street. For the purposes of clarity in this review, the north-south portion of Commercial Alley extending from 83 Court Street's northern property line to Court Street, that is reserved for pedestrian traffic, will be referred to as the Commercial Alley Pedway.

## **F. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY**

83 Court Street: In October of 2008, the Planning Commission approved a Series A Site Plan / Special Use Permit to Stellar 6001, LLC for a 2<sup>nd</sup>-5<sup>th</sup> floor multi-unit residential (200 total BRs, mixture of lofts, 1 BR and 2BR units) and Basement/1<sup>st</sup> Floor retail development in the C-2 District.

15-17 Chenango Street, 1 Commercial Alley, 83-85 & 87 Court Street: The Planning Commission approved a Series A Site Plan Review application submitted by Satra Realty in January of 2001 for the conversion of the second, third, fourth, and fifth floors of an existing building to apartments for students (45 One Bedroom, 2 Two-Bedroom), with 1<sup>st</sup> floor reserved for commercial uses.

60-68 Court Street: Adam Weitsman was given a Special Use Permit by the Planning Commission in March of 2000 to operate a billiard/pool hall.

60-68 Court Street: In June of 2011, the Planning Commission approved a series A Site Plan / Special Use Permit for a Cultural Facility and a Multi-Unit Dwelling (More than 4 Bedrooms) in the C-2 District.

73 Court Street: In April of 2011, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of upper-floor space to a Dormitory, Off-Campus.

73 Court Street: In June of 2012, Planning Staff granted a Series A Site Plan / Special Use Permit Exception for a Tavern in a former Tavern space.

80 Court Street: In March of 2010, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of a commercial space to two dwelling units.

## G. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **UNLISTED** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
  - a. Type I
  - b. Type II
  - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

## H. STAFF FINDINGS

Planning Staff has the following findings:

1. The Planning Commission must determine if the requirements of Section 410-47 for a Series A Site Plan Review have been met.

Renovation of multi-story structures for residential use is appropriate in the C-2 Downtown Business District, provided that 1<sup>st</sup> floor uses do not interrupt the desired streetscape vibrancy identified in the City of Binghamton's long-term goals for downtown development. The proposal's inclusion of residential units on the 1<sup>st</sup> floor is not ideal, however impacts of these units on the desired streetscape are mitigated in some measure by the reservation of a limited amount of common area & retail space along the frontages of Chenango Street and Court Street. The proposed project would restore a long-

vacant, damaged structure that creates a positive impact on the vitality & stability of the Downtown Business District.

2. The Planning Commission must determine if the general requirements as set forth in Section 410-40 for a Special Use Permit have been met.

The proposed project, with the incorporation of the suggested conditions of approval below, will be compatible with the surrounding neighborhood.

## **I. SUGGESTED CONDITIONS**

1. That ground surfaces surrounding the structure's northeast corner (along the northern Commercial Alley frontage and western Commercial Alley Pedway frontage) currently in disrepair be reconstructed to provide adequate capacity and accessibility levels to withstand the increased intensity of service/delivery/maintenance vehicle traffic and pedestrian traffic accessing the site via Commercial Alley and Commercial Alley Pedway.
2. That sufficient site lighting be installed along subject property's north (Commercial Alley) and east (Commercial Alley Pedway) frontages to ensure personal safety and visibility of/for tenants utilizing the subject area.
3. That all debris, gravel and other materials surrounding the northeast corner of the structure (along the northern Commercial Alley frontage and western Commercial Alley Pedway frontage) be removed and in the resulting footprint, aesthetic and user amenities be installed to accommodate the increased intensity of use generated by the development, to the extent practicable. The design of this rehabilitation should match the aesthetic of on-going Main Street Grant investment projects coordinated through the City of Binghamton Economic Development Office.
4. That the applicant shall install bicycle parking facilities near all 3 primary points of ingress/egress (Court Street, Chenango Street and Commercial Alley) to accommodate increased demand.

## **J. ENCLOSURES**

Enclosed is a copy of the site plan, floor plans, application, Short Environmental Assessment Form (EAF) and site photographs.

Sincerely,

Patrick C. Day  
Planner

Enclosures